

**ILLINOIS LANDFILL GAS COALITION
COMMENTS ON IMPLEMENTATION OF A
RENEWABLE PORTFOLIO STANDARD
AS PRESENTED BY AMEREN AND COMMONWEALTH EDISON
ON APRIL 21, 2005**

The Illinois Landfill Gas Coalition (“ILGC”) offers the following initial comments on the proposals contained in the presentations by Ameren and Commonwealth Edison (“ComEd”) at the RPS working group meeting on April 21, 2005. ILGC is aware that further details of each proposal will be developed and notes that these are initial comments only. ILGC appreciates the considerable effort that was required for each company to develop an approach to the RPS in a relatively short time frame. ILGC reserves the right to comment further as additional details are presented concerning the two proposals and as the RPS concept develops further. ILGC notes that an RPS will have the best chance of success only if the approach to contracting with renewable generators is flexible enough to accommodate the different needs of the various renewable technologies. A “one size fits all” approach is unlikely to lead to the desired level of renewable generation. ILGC looks forward to working with Ameren, ComEd and other stakeholders to shape the Illinois RPS.

PRICING

Ameren and ComEd each propose implementing an RPS in the form of a supply price hedge. Both proposals envision a contract with the renewable generator that would include a fixed price. ILGC believes it would be preferable to adopt an RPS which defines and implements a Renewable Energy Certificate (REC) market, and does not require the sale of energy and/or capacity bundled with the RECs. A working model for this approach is the NEPOOL Generator Information System, used by Massachusetts and Connecticut for trading RECs and tracking RPS compliance. Under this approach, each renewable generator would be free to contract with a buyer of energy and capacity as if there were no RPS. The generator would sell RECs to utilities that are subject to the RPS and, to other retail electric suppliers (which may or may not be subject to the RPS). In some cases the RECs would be purchased by the entity that buys energy and capacity from the generator. A market for unbundled RECs allows the utilities (and, if applicable, alternative electric suppliers) to purchase RECs in the quantity needed to comply with the RPS.

CONTRACT TERM

Both utilities proposed a contract term of at least ten years for purchases of renewable energy or renewable energy certificates. Experience in the landfill gas industry indicates that contract terms of ten years or less are more attractive than longer term contracts. (If a regulatory out is required by the purchasing utility, renewable suppliers would be more likely to seek shorter term contracts so as to mitigate the risk of contract termination due to the regulatory out.) ILGC is aware that developers of certain renewable technologies have indicated that a much longer term than ten years is necessary to finance new generating facilities. Because of the different needs of different technologies and owners of renewable generation, ILGC recommends a flexible approach to contract terms under

the RPS. The unbundled REC market described above would lend itself to such a flexible approach.

REGULATORY OUT

ComEd noted that it probably will need a “regulatory out” provision in contracts with renewable generators. Such a provision would allow the purchaser to terminate a contract in the event a future Commerce Commission does not allow the utility to pass RPS costs on to its retail customers. The inclusion of a regulatory out in utility contracts with renewable generators could create a significant barrier to the development of renewable generation in Illinois. ComEd appears to have recognized this problem, noting that the regulatory out should be as narrow as possible. Nonetheless, a regulatory out can make it more difficult to obtain financing for a renewable generating facility besides making the utility contract less attractive than contracts with other purchasers of renewable energy or RECs.

PURCHASE OF CAPACITY RATHER THAN ENERGY

As noted in its initial comments on the Governor’s Sustainable Energy Plan, ILGC strongly recommends that utility compliance with the RPS should be measured by purchases of energy, not contracts for capacity. The goal of generating renewable energy is met only if and when the energy is actually generated and delivered to the utility. For this and other reasons, the RPS compliance standard should be based on energy delivered rather than contracted capacity.

PENALTY FOR FAILURE TO COMPLY WITH RPS REQUIREMENT

During the last workshop, it was predicted that the price of RECs (or of renewable energy bundled with RECs) is likely to rise to the level of the penalty payment imposed on a utility for failure to comply with the RPS. This is likely to be the case only where there is a severe shortage of RECs because the RPS requirement was set at too high a level. Imposition of a penalty for noncompliance with the RPS can be an important tool in ensuring that the state’s renewable potential actually is developed. In addition, such a penalty need not raise the price of the RECs. One example to note is the penalty adopted in Texas which is set at the lower of \$50.00 or twice the average REC price during the immediately preceding year.